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ANNUAL REPORT

OF

PUBLIC DEFENDER OF LOS ANGELES COUNTY

July 1, 1954 to June 30, 1955

ELLERY E. CUFF

PUBLIC DEFENDER

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FOREWARD

During the past several years the various jurisdictions throughout the nation have been evincing a growing interest in the Los Angeles County Public Defender system. This has become evident from the increasing number of inquiries received from officials, representatives of legislatures, bar groups, educators, schools and other organizations, groups and individuals. Some of them even went as far as to send their personal representatives here to make a detailed study of the office and how it functions.

From these inquiries, it is apparent that the functioning of the Los Angeles County Public Defender's office has attracted nationwide attention of a favorable sort. It is looked to as a model by other jurisdictions interested in creating a public defender system as a department or branch in their county or state governments.

Having in mind the general trend of questioning pertaining to the office, its philosophy, history and organization, it is believed an annual report covering these points would be timely.

ELLERY E. CUFF

FUNCTION AND PURPOSE OF THE OFFICE

HISTORICAL CONSIDERATIONS:

The idea of a public defender or the equivalent is not entirely new. According to some authorities the records of ancient Roman law indicate the existence of an officer with duties similar, and such was recognized in their legal system.

The civil laws of France and Spain contain provisions for an officer whose duty and function parallel, in some respects, our concept of the duty and function of a public defender. However, there is strong reason to believe these officers were either pretty much under the domination of totalitarian forms of government or otherwise under the control of prosecuting authorities and therefore the exercise of their full duty was greatly restricted, if not entirely ineffective, in the majority of cases.

In the United States, where the government and laws are such that such an office would seem most proper in order to give full effect to certain guaranteed rights, the public defender system is comparatively new. The first public defender office in the United States originated in Los Angeles County.

Probably at no juncture in the life of western society is the Christian and democratic doctrine of the dignity and paramount importance of the individual shown in clearer opposition to the ideology of both communism

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and fascism than here. The separate ways of life stand in precise opposition. On the one hand is the doctrine that the state is all, the individual nothing. On the other, is the profound belief that the individual, his rights and his safeguards make up the central nexus of existence, and the state only justifies its existence by protecting these rights and safeguards.

The first ten amendments to the United States Constitution, the so-called "Bill of Rights", expressly secure the right of all men to enjoy equal protection and equal liberty under the law. Of these, the sixth provides, in part, as follows:

> "In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury . . . and to have the assistance of counsel for his defense."

The several states of the nation have similar provisions. Article I, Section 13 of our California Constitution provides:

> "In criminal prosecutions, in any court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf, and to appear and defend, in person and with counsel. No person shall be twice put in jeopardy for the

same offense; nor be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property without due process of law. The legislature shall have power to provide for the taking, in the presence of the party accused and his counsel, of depositions of witnesses, in criminal cases other than cases of homicide, when there is reason to believe that the witness, from inability or other cause, will not attend at the trial."

Those interested in the administration of criminal justice soon realized the right of counsel in itself alone did not make effective the equality sought, as expressed in these great documents. An accused person with means to employ an attorney had the elements of his defense aggressively presented at the trial by a skillful lawyer, while the accused men without money found himself unjustly handicapped, and left to his own devices was helpless. These inequalities were manifest from the beginning of our government. Various methods to obviate the differences were employed without uniform results. The assigned counsel system was employed, as was the volunteer counsel system. Without going into the relative defects and shortcomings of each, one can say they were not functioning satisfactorily to the end that inequalities were not still a source of grave complaint.

At the turn of the century in this growing community of Los Angeles, the judges and those civic minded groups and individuals interested in the administration of criminal justice recognized the problem with increasing concern. California has a constitutional provision authorizing counties to frame and adopt charters for their own government, found in Article XI, Section 7½. The amendment adding Section 7½ was proposed by the state legislature in 1911 and approved October 10th of the same year.

The section is extensive and comprehensive and outlines how a county must proceed to frame a charter and what it shall provide. Among other things it contains the proviso:

> "All charters framed under the authority given by this section, in addition to the matters herein above specified, may provide as follows:
>
> "For officers other than those required by the Constitution and laws of the state, or for the creation of any or all of such offices by boards of supervisors, for the election or appointment of persons to fill such offices, for the manner of such appointment, for the times at which and the terms for which such persons shall be so elected or appointed, and for their compensation, or for the fixing of such compensation by boards of supervisors."

Los Angeles County took advantage of this constitutional provision and framed a charter for its own government. The charter contains the provision for a public defender. In 1914 the office of Public Defender of Los Angeles County was opened, functioning as a regular department of county government.

The framers of the charter, with forethought concerning future developments, provided:

> "Sec. 25. Each county or township officer, Board or Commission shall have the powers and perform the duties now or hereafter prescribed by general law, and by this Charter, as to such officer, Board or Commission."

Hence, although the County Public Defender is a creation of the County Charter, this section comprehends the general laws of the state as defining, adding to or increasing the powers and duties of the office.

Within a few years Alameda County and the City and County of San Francisco followed Los Angeles County's example and established public defender offices.

In 1921 the Legislature of the State of California enacted a law empowering each county to create a public defender office, how he should be chosen, his qualifications, duties, etc. In this act the state law adopted the exact language of the Los Angeles County Charter in defining the duties of the office. (See Gen. Laws of 1921, Act 3672.)

From time to time the state legislature amended this act modifying or affecting the manner of appointment, qualifications, allowing one public defender to serve two or more counties, etc. (See Sec. 27700, Gov. Code.)

From its inception, the office adopted the policy of adhering to highest standards of legal ethics as promulgated by the American Bar Association, the State Bar of California and the California Professional Code.

JURISDICTION:

The County Charter, under which the office of public defender was created, provides:

> "Sec. 23. Upon request by the defendant or upon order of the court, the Public Defender shall defend, without expense to them, all persons who are not financially able to employ counsel and who are charged, in the Superior Court, with the commission of any contempt, misdemeanor, felony or other offense. He shall also, upon request, give counsel and advice to such person, in and about any charge against them upon which he is conducting the defense, and he shall prosecute all appeals to the higher court or courts, of any person who has been convicted upon any such charge, where, in his opinion, such appeal will, or might reasonably be expected to, result in a reversal or modification of the judgment of conviction.

"He shall also, upon request, prosecute actions for the collection of wages and of other demands of persons who are not financially able to employ counsel, in cases in which the sum involved does not exceed $100 and in which, in the judgment of the Public Defender the claims urged are valid and enforceable in the courts."

POWERS AND DUTIES ADDED BY STATE LAW:

In 1943 the state enacted a law creating a "Procedure for restoration of rights and application for pardon" after a convicted person had served his term of imprisonment. This is commonly referred to as the "Rehabilitation Act", and it prescribes in detail the conditions and circumstances to be followed by those desiring to avail themselves of the benefits. The act also provides that the applicant, if he has no counsel, shall be represented by the public defender.

In 1949 the state legislature amended the Government Code in defining the duties of the public defender by requiring the public defender to represent persons having no attorney or the financial means of employing one, who are charged with the commission of any contempt or offense triable in the superior court at all stages of the proceedings, including the preliminary examination (Gov. Code, Sec. 27706.)

At the extra session of the legislature in 1952

the sexual psychopath laws were amended to the extent that if an alleged sex psychopath appearing at his hearing "has no attorney, the judge may appoint an attorney for him, or the judge may order the public defender to represent him at the hearing, if he determines that the person is not financially able to employ counsel". (H. & S. Code, Sec. 5511.)

PERSONNEL:

The office, at the start of the fiscal year, embraced the Public Defender, Chief Deputy and twenty-three Deputies Public Defender. All but three of the deputies are assigned to the handling of criminal cases. The three otherwise assigned devote their full time to matters embraced within the civil jurisdiction of the office.

The office has an investigation staff of four - one Lieutenant and three Investigators. The clerical staff consists of one Senior Secretary, One Intermediate Secretary, three Legal Secretaries, one Intermediate Stenographer and one Stenographer.

LOCATION:

The main office of the Public Defender is located in the Hall of Records, in the Civic Center of Los Angeles. A number of years ago a branch office was opened to serve the departments of the Superior Court in Long Beach. The Long Beach office is staffed with two Deputies Public Defender and one Legal Secretary. The criminal departments of the Superior Court functioning in Pasadena, Pomona and Santa

Monica are served by deputies working out of the main office.

DUTIES:

The work as it relates to the criminal phase - preliminary examinations, arraignments, pleas, trials, probationary hearings, violation of probation hearings and modifications of probation, appeals, etc., are embraced in this category - seems to be pretty well known. In the matter of appeals the office has always kept in mind the rule, as aptly stated in an expression of one of our appellate courts:

> "It is the duty of every member of the legal profession to go carefully over the record before perfecting an appeal. If it is evident that a conflict in the evidence has been resolved by the trier of fact and that there has been no error of law, it is then the lawyer's duty to advise his client of the helplessness of such an appeal. Litigants should never be put to the expense, and courts and counsel to the waste of time and effort involved in such cases." (People v. Bates, 126 Cal. App. 2d 144.)

But, on the other hand, if after a careful study of the case and the record thereof it appears reasonable to expect a reversal or modification may result, the case is appealed without hesitation. However, it may be noted that not many appeals are taken, considering the number of cases tried.

As to the functions of the office in the civil division, this is the less spectacular phase of the work but nonetheless, it is important both from the viewpoint as to the rights of the individual involved and indirectly as it affects county government expenditures. The greater portion of accepted cases involve the release of wages from attachment. Releasing the wages, which may be wrongfully attached, of the head of a family otherwise destitute helps the family and frequently keeps them from being forced to apply for assistance at the county charities department or some other charitable institution, but mostly county.

The office exercises extreme care that none but those properly eligible for legal assistance are accepted. The number of such cases is reflected elsewhere in this report. Even with good times and plenty of employment there are those unfortunates, the unwise and those who at the time indebtedness was incurred were reasonably solvent financially but subsequent reverses of one sort or another, death to some member of the family, illness, injuries, and the like, have altered their ability to carry their full measure of financial commitments and they ultimately find themselves defendants in law suits. And, of course, there are the improvident who buy beyond their means. These are exploited and imposed upon by overzealous vendors who by use of extravagant statements and luring enticements get them to sign contracts calling for payments far beyond

their abilities to pay, but not at all understood by the individual. And many are the unwary who sign contracts to get out of one bad situation only to learn to their consternation that they are in deeper financial mires than before. No small number are victims of the most palpable frauds. Any or all of these usually have families dependent entirely for their daily food and shelter upon their weekly earnings. These are the type of cases handled by the office, either by way of taking some immediate action to ameliorate their condition or giving them appropriate advice as sound judgment may dictate.

INVESTIGATORS :

The work of the investigation staff is confined almost exclusively to the criminal jurisdiction of the office. The Investigators' duties are comparable to those of investigators in any private law office or the District Attorney's office - locating witnesses and making field investigations of cases assigned to them by trial deputies in the department. The policy of the office is to investigate thoroughly and ascertain the true facts, regardless of whether it proves favorable or unfavorable to the accused. This phase of the work of the office has resulted in substantial economies which are reflected and measured by the number of dismissals noted, in many of which unimpeachable evidence was discovered showing the complete innocence of the defendants although at first the evidence appeared

strong against them. On the other hand, the facts brought to light by the same type of investigation have been instrumental in bringing about a substantial number of pleas of guilty in proper cases.

By such careful investigation the chance of miscarriage of justice is reduced to a minimum, equitable dispositions of many cases are summarily adjusted which otherwise would have had to be tried, and in almost every trial in which there has been an investigation the duration of the trial is shortened by reason of the fact that the trial deputy is fully advised as to the evidence to be presented and is able to present it expeditiously. While substantial savings are effected in trial costs, great care is exercised that the rights of an accused person are in no manner sacrificed.

In the following statistical data it will be noticed the term "Master Calendar Department" is used. To avoid confusion, this term perhaps merits a brief explanation. In the central Los Angeles area there are eight superior court departments devoted to handling criminal work exclusively. (This does not include the outlying branch courts.) One of these courts is designated the "Master Calendar" and all arraignments of felony cases first appear here. If on arraignment the defendant pleads guilty, the matter will be handled through to termination in the Master Calendar. If, on the other hand, the defendant pleads not guilty, the case is transferred to one of the other seven departments, which are designated "Trial Departments".

The areas served by branch courts, Long Beach, Santa Monica and Pasadena where more than one department is in operation, a similar setup prevails, i.e., all arraignments initially appear in a Master Calendar Department in their respective areas.

COMPOSITE STATISTICAL RECORD
OF CRIMINAL WORK OF OFFICE
July 1, 1954 to June 30, 1955

NUMBER OF NEW CASES RECEIVED (excluding preliminary hearings):			
Los Angeles:			
Felonies	3,865		
Contributing	89		
Pasadena	216		
Pomona	175		
Santa Monica	291		
Long Beach	411	5,047	
VIOLATIONS OF PROBATION:			
Los Angeles	459		
Pasadena	20		
Pomona	18		
Santa Monica	33		
Long Beach	43	573	
CIVIL INSANITY WITH JURY TRIAL:		50	
MOTIONS TO MODIFY PROBATION:			
Los Angeles	15		
Pasadena	1		
Pomona	4		
Santa Monica	5		
Long Beach	2	27	
PRELIMINARY HEARINGS:		2,360	
SEX PSYCHOPATHIC HEARINGS (All courts):		151	
PRESENT INSANITY HEARINGS (Arising from criminal charges) (All courts):		16	
MISCELLANEOUS:			
Habeas corpus, contempts, juvenile petitions, etc. (All courts);		61	8,285

* * * *

REHABILITATION PROCEEDINGS:		
Rehabilitation proceedings initiated	48	
Hearings on rehabilitation petitions	10	
Certificates of good character granted	10	
Certificates of good character denied without prejudice		68
UNFINISHED CASES:		
Pending 7-1-54 and finished during current year (All courts)		753
UNFINISHED CASES		
Pending 6-30-55 (All courts)		521
APPEALS		3

SUMMARY OF DISPOSITIONS OF CRIMINAL CASES

July 1, 1954 to June 30, 1955

- - -

MASTER CALENDAR DISPOSITIONS:		
Pleaded guilty	2,494	
(Substituted out after plea - 53)		
Substituted out before plea	203	
Dismissed	160	
Transferred to Juvenile Court	22	
Placed off calendar because:		
Presently insane	6	
Civil insanity petition filed	7	
Defendants unavailable - bench warrants issued	4	
Miscellaneous reasons	-	2,896
TRIAL COURT DISPOSITIONS (no trial):		
Pleaded guilty	795	
(Substituted out after plea - 20)		
Substituted out (private attorney procured or in pro.per.)	289	
Dismissed	106	
Transferred to Juvenile Court	3	
Off calendar because:		
Presently insane	13	
Civil insanity petition filed	1	
Defendants unavailable - bench warrants issued	4	
Miscellaneous reasons	5	1,216
TRIAL BY JURY - TO VERDICT (jury cases):		178
TRIAL BY COURT - TO DECISION (without jury):		905

SUMMARY OF DISPOSITIONS OF CRIMINAL CASES
(continued)

VIOLATIONS OF PROBATION:		
Probation revoked	322	
Probation reinstated	226	
Substitions	21	
Sex Psycho.	4	573
PRELIMINARY HEARINGS:		
Held to answer	1,677	
Transferred to Juvenile Court	6	
Pleaded guilty to misdemeanor	158	
Dismissed or otherwise disposed of	101	
Substitutions	433	
Off Calendar - bench warrants issued	5	2,380
CONTRIBUTING TO DELINQUENCY OF MINOR CASES:		
Pleaded guilty	44	
Dismissed or placed off calendar	12	
Substituted out	27	
Transferred to Juvenile Court	2	
Trials by court - no jury	8	
Trials by jury	-	93
MISCELLANEOUS:		
Petitions to modify probation:		
Granted	26	
Denied	1	27
Youth Authority petitions to dismiss:		
Granted	9	
Denied	-	9
Insanity proceedings certified from Municipal Court		18
Sex psycho. original hearings		69
Sex psychopathics returned from State Hospital for sentence or other disposition		67
Habeas corpus, writs of mandate, prohibition, parole hearings, etc.		41

CIVIL JURISDICTION

July 1, 1954 to June 30, 1955

Applications in which advice was given:		
Los Angeles	6,339	
Long Beach	676	7,015
Applications rejected:		
Refused:		
Los Angeles	309	
Long Beach	64	373
Referred to attorneys:		
Los Angeles	2,420	
Long Beach	37	2,457
*Applications referred to other agencies and unclassified:		
Los Angeles	4,649	
Long Beach	263	4,912
Accepted cases (see next table)		
Los Angeles	4,617	
Long Beach	550	5,167
		19,924

*Because the subject matter was not within the office jurisdiction (example - real property) or applicant able to pay a fee.

DETAIL OF ACCEPTED CASES

Illegal attachments - garnishments:		
Los Angeles	3,521	
Long Beach	463	3,984
Guardianships:		
Los Angeles	285	
Long Beach	-	285
Persecutions - other than exemptions and invalid assignments:		
Los Angeles	172	
Long Beach	-	172
Wage claims and miscellaneous:		
Los Angeles	344	
Long Beach	87	431
Waivers of premarital test:		
Los Angeles	295	
Long Beach	-	295
		5,167

CIVIL JURISDICTION

(continued)

RECOVERED FOR CLIENTS

Wages released from illegal attachments - garnishments:		
Los Angeles	$218,055.45	
Long Beach	51,675.33	$269,730.78
Defense in civil cases:		
Los Angeles	11,805.95	
Long Beach	-	11,805.95
Miscellaneous items:		
Los Angeles	9,887.43	
Long Beach	-	9,887.43
Collected on cases pending 7-1-54		9,301.94
Total collected 7-1-54 to 6-30-55		$300,726.10

Total appearances in court on civil cases:		
Los Angeles	1,226	
Long Beach	6	1,232

REPORT OF BUREAU OF INVESTIGATION

July 1, 1954 to June 30, 1955

Criminal cases handled	1,707
Civil cases handled	15
	1,722

*Defendants represented, criminal	1,764
Persons interviewed in field	7,002
Persons subpoenaed at interview	435

*A case sometimes involves more than one defendant.

CHARGES INVESTIGATED

July 1, 1954 to June 30, 1955

Robbery	130	286 P.C.	1
Att. Robbery	16	Pimping	4
Murder	35	Indecent exposure	2
Att. Murder	1	Narcotics	267
Grand Theft	70	Forgery	198
Grand Theft/Person	23	Checks NSF	152
Att. Grand Theft	1	Receiving Stolen Property	2
Grand Theft/503 V.C.	152	Escape	20
Petty Theft	40	ADW/Murder	10
Burglary	270	501 V.C.	19
Att. Burglary	10	480 V.C.	13
Burglary/Grand Theft	9	503 V.C.	13
Manslaughter	6	506 V.C.	1
Assault Deadly Weapon	61	273d P.C.	8
Assault/Force	7	Civil Insanity	20
Assault/GBI	20	Miscellaneous	12
Assault/Rape	6	Civil	15
Rape	58	Arson	3
Att. Rape	3	Bookmaking	6
288 and 288a P.C.	97	Violation Probation	4
Contrib. to Del. Minor	4	Perjury	4
Incest	2	Extortion	2
Kidnap	6	Sex Psychopath	1
Kidnap/Robbery	7	Deadly Weapons Control Law	19
Abortion	1		

TOTAL CHARGES INVESTIGATED 1,737

FINANCIAL REPORT

OF

PUBLIC DEFENDER OF LOS ANGELES COUNTY

MONEYS RECEIVED

Total amount of moneys collected and received for and on behalf of the persons represented by the Public Defender under the law. Said moneys were collected from claimants for costs and from defendants indebted to said persons so represented:	$999.57

No moneys belonging to the County of Los Angeles were collected.

MONEYS EXPENDED

Total Salaries		$260,488.14
Total Outlay Expenditures:		
Books	$165.52	
Furniture & Furnishings	867.45	1,032.97
Total Maintenance & Operation		8,858.95
		$270,380.06

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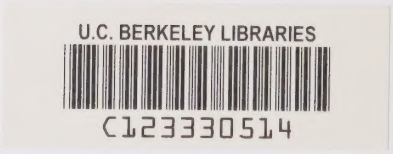

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